



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 8, 2014

The Honorable John Duncan
U.S. House of Representatives
2207 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Duncan:

Thank you for contacting me regarding the Commission's proposal to modernize and harmonize its rules governing in-flight wireless services. I welcome your comments on this issue, and appreciate the opportunity to clarify the limited, technology-focused *Notice of Proposed Rulemaking (NPRM)* the Commission approved on December 12, 2013. I also appreciate your support for the Commission's process, and recognition that appropriate actions can be taken to modernize an outdated technological rule and enable in-flight connectivity options that are available elsewhere in the world to be available in the United States.

It is true that in-flight technology has been transformed over the past several years, and that passenger use of mobile devices could provide access to a wide range of in-flight communications applications, including text, e-mail, and data applications. It is also true that current technology offers airlines the flexibility to deploy a system that can allow data only.

The FCC's December *NPRM* represented the beginning of a process to consider whether and how we should revise our rules to account for new technology and to improve consumers' access to mobile wireless services onboard aircraft. As a first step in that process, we are collecting information and soliciting the views of consumers and other stakeholders on an array of questions that will assist us in determining if any modifications to our rules would serve the public interest. However, even if the record leads the Commission to update our rules, it will be the airlines' decision, in consultation with their customers and subject to applicable Department of Transportation (DoT) and Federal Aviation Administration (FAA) rules, whether or not to permit the use of data, text and/or voice services while airborne.

There are several key aspects to the Commission's proposal. First, we propose to harmonize our rules by expanding the current restriction on in-flight use of cellphones operating in the 800 MHz band to cover all mobile communications services in all mobile wireless bands. That the current rules do not apply to phones operating in other cellular frequencies represents a regulatory inconsistency that is poor policy.

Second, we propose to modernize our rules by permitting airlines using FAA-certified airborne access systems to decide, consistent with DoT and FAA rules, whether and how to make in-flight mobile wireless services available to their customers. As the expert agency on communications, it is the FCC's role to examine continuously our rules in light of such technology developments and to eliminate unnecessary or outdated regulations where

appropriate. The principal reason the Commission adopted its existing rule was out of a concern that such use onboard an aircraft could interfere with a terrestrial network on the ground. Today, new airborne access systems, which have been in use for a number of years by airlines in other countries, capably manage the mobile device's signal so that it does not cause interference to cell phone networks on the ground.

In light of these recent technological advances, the Commission is obligated to examine whether our existing restrictions on airborne use remain necessary to prevent harmful interference to mobile networks on the ground. Accordingly, the Commission is seeking comment on whether such airborne access systems can be used by airlines to effectively manage mobile broadband-capable devices operating on U.S. cellular bands. This proposal would replace current restrictions – which affect some, but not all, mobile bands – with a consistent regulatory framework that explicitly prohibits airborne use of cellular services in all frequency bands unless an aircraft is equipped with an airborne access system and is complying with all applicable DoT and FAA requirements.

Consistent with the views expressed in your letter, initial public response to the *NPRM* largely has focused on the possibility that modernizing our rules would open the door to allow passengers to make voice calls during flight. Many are concerned that adoption of this proposal would result in a less-enjoyable travel experience caused by other passengers engaging in unreasonably loud phone conversations during flight. These are not unreasonable concerns. As a frequent airline passenger, I would prefer that voice calls not be made on planes. However, it is the responsibility of the Commission to ensure, to the greatest degree we can, that our rules are based on sound *technological* judgments.

If the Commission determines that airborne mobile use is possible without negative effects to cellular networks, the *airlines*, under the FCC's proposal, would have the ultimate say as to whether and how to provide service using cellular airborne access systems, subject to applicable DoT and FAA rules. In fact nothing in this proposal would limit the ability of airlines to ban voice conversations in-flight. For example, an airline could choose to not offer voice service at all and to only provide data communications so that passengers can experience the kind of data-focused activities that you mention: surf the Web, send and receive text messages and email, or access social media to stay connected to friends and family.

Moreover, issues regarding passenger impact are more appropriately resolved by the DOT's Office of the Secretary (OST), which oversees aviation consumer protection issues, and the FAA, which has authority over safety issues. In this regard, OST recently issued an Advance Notice of Proposed Rulemaking (ANPRM) to examine the issue of air passengers' airborne use of mobile wireless devices for voice calls. The ANPRM seeks comment on whether allowing in-flight voice communications is unfair to consumers and, if so, whether such use should be banned or restricted. I am fully supportive of that examination.

Additionally, the FAA is actively engaged in this matter to the extent it impacts airline safety or operations. Earlier this year the FAA released a Congressionally-mandated report titled *Study on the Use of Cell Phones on Passenger Aircraft* indicating that foreign civil aviation authorities in numerous countries where such technology has already been deployed reported “no documented occurrences of cell phones affecting flight safety on aircraft with on-board cellular telephone base stations.” The study found that “[n]one of the civil aviation authorities reported any cases of air rage or flight attendant interference related to passengers using cell phones on aircraft equipped with on-board cellular telephone base stations.”²³

Congress can also address whether in-flight voice calls should be banned. Two bills have been introduced, H.R. 3676 and S.1811, that would ban voice calls on flights. H.R. 3676 has been reported out of the House Committee on Transportation and Infrastructure. The Commission is ready to offer technical assistance on these bills and any other similar legislation.

There will be months of public comment and debate on the specific issues raised in the *NPRM* prior to any adoption of final rules. We hope that all interested stakeholders, including the airlines, flight attendants, pilots, the flying public, and others will review our draft proposal closely and engage in our rulemaking process.

Once again, thank you for apprising me of your views on this important matter. Please let me know if there is any additional information about this matter I can provide. We will place your inquiry in the record of this proceeding.

Sincerely,

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Tom Wheeler

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WASHINGTON

April 8, 2014

The Honorable Keith Ellison
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Ellison:

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 8, 2014

The Honorable Elizabeth Esty
U.S. House of Representatives
509 Cannon House Office Building
Washington, DC 20515

Dear Congresswoman Esty:

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 8, 2014

The Honorable Sam Farr
U.S. House of Representatives
1126 Longworth House Office Building
Washington, DC 20515

Dear Congressman Farr:

Thank you for contacting me regarding the Commission's proposal to modernize and harmonize its rules governing in-flight wireless services. I welcome your comments on this issue, and appreciate the opportunity to clarify the limited, technology-focused *Notice of Proposed Rulemaking (NPRM)* the Commission approved on December 12, 2013. I also appreciate your support for the Commission's process, and recognition that appropriate actions can be taken to modernize an outdated technological rule and enable in-flight connectivity options that are available elsewhere in the world to be available in the United States.

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 8, 2014

The Honorable Tulsi Gabbard
U.S. House of Representatives
502 Cannon House Office Building
Washington, DC 20515

Dear Congresswoman Gabbard:

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Sincerely,



Tom Wheeler

³¹ Section 410 in the FAA Modernization and Reform Act of 2012 (Public Law 112-95) directed the Administrator of the FAA to conduct a study on the impact of the use of cell phones for voice communications in an aircraft during a flight in scheduled passenger air transportation. Section 410 directed the study to include a review of foreign government and air carrier policies on the use of cell phones during flight; a review of the extent to which passengers use cell phones for voice communications during flight; and a summary of any impacts of cell phone use during flight on safety, the quality of the flight experience of passengers, and flight attendants.



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 8, 2014

The Honorable Gene Green
U.S. House of Representatives
2470 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Green:

Thank you for contacting me regarding the Commission's proposal to modernize and harmonize its rules governing in-flight wireless services. I welcome your comments on this issue, and appreciate the opportunity to clarify the limited, technology-focused *Notice of Proposed Rulemaking (NPRM)* the Commission approved on December 12, 2013. I also appreciate your support for the Commission's process, and recognition that appropriate actions can be taken to modernize an outdated technological rule and enable in-flight connectivity options that are available elsewhere in the world to be available in the United States.

It is true that in-flight technology has been transformed over the past several years, and that passenger use of mobile devices could provide access to a wide range of in-flight communications applications, including text, e-mail, and data applications. It is also true that current technology offers airlines the flexibility to deploy a system that can allow data only.

The FCC's December *NPRM* represented the beginning of a process to consider whether and how we should revise our rules to account for new technology and to improve consumers' access to mobile wireless services onboard aircraft. As a first step in that process, we are collecting information and soliciting the views of consumers and other stakeholders on an array of questions that will assist us in determining if any modifications to our rules would serve the public interest. However, even if the record leads the Commission to update our rules, it will be the airlines' decision, in consultation with their customers and subject to applicable Department of Transportation (DoT) and Federal Aviation Administration (FAA) rules, whether or not to permit the use of data, text and/or voice services while airborne.

There are several key aspects to the Commission's proposal. First, we propose to harmonize our rules by expanding the current restriction on in-flight use of cellphones operating in the 800 MHz band to cover all mobile communications services in all mobile wireless bands. That the current rules do not apply to phones operating in other cellular frequencies represents a regulatory inconsistency that is poor policy.

Second, we propose to modernize our rules by permitting airlines using FAA-certified airborne access systems to decide, consistent with DoT and FAA rules, whether and how to make in-flight mobile wireless services available to their customers. As the expert agency on communications, it is the FCC's role to examine continuously our rules in light of such technology developments and to eliminate unnecessary or outdated regulations where

appropriate. The principal reason the Commission adopted its existing rule was out of a concern that such use onboard an aircraft could interfere with a terrestrial network on the ground. Today, new airborne access systems, which have been in use for a number of years by airlines in other countries, capably manage the mobile device's signal so that it does not cause interference to cell phone networks on the ground.

In light of these recent technological advances, the Commission is obligated to examine whether our existing restrictions on airborne use remain necessary to prevent harmful interference to mobile networks on the ground. Accordingly, the Commission is seeking comment on whether such airborne access systems can be used by airlines to effectively manage mobile broadband-capable devices operating on U.S. cellular bands. This proposal would replace current restrictions – which affect some, but not all, mobile bands – with a consistent regulatory framework that explicitly prohibits airborne use of cellular services in all frequency bands unless an aircraft is equipped with an airborne access system and is complying with all applicable DoT and FAA requirements.

Consistent with the views expressed in your letter, initial public response to the *NPRM* largely has focused on the possibility that modernizing our rules would open the door to allow passengers to make voice calls during flight. Many are concerned that adoption of this proposal would result in a less-enjoyable travel experience caused by other passengers engaging in unreasonably loud phone conversations during flight. These are not unreasonable concerns. As a frequent airline passenger, I would prefer that voice calls not be made on planes. However, it is the responsibility of the Commission to ensure, to the greatest degree we can, that our rules are based on sound *technological* judgments.

If the Commission determines that airborne mobile use is possible without negative effects to cellular networks, the *airlines*, under the FCC's proposal, would have the ultimate say as to whether and how to provide service using cellular airborne access systems, subject to applicable DoT and FAA rules. In fact nothing in this proposal would limit the ability of airlines to ban voice conversations in-flight. For example, an airline could choose to not offer voice service at all and to only provide data communications so that passengers can experience the kind of data-focused activities that you mention: surf the Web, send and receive text messages and email, or access social media to stay connected to friends and family.

Moreover, issues regarding passenger impact are more appropriately resolved by the DOT's Office of the Secretary (OST), which oversees aviation consumer protection issues, and the FAA, which has authority over safety issues. In this regard, OST recently issued an Advance Notice of Proposed Rulemaking (ANPRM) to examine the issue of air passengers' airborne use of mobile wireless devices for voice calls. The ANPRM seeks comment on whether allowing in-flight voice communications is unfair to consumers and, if so, whether such use should be banned or restricted. I am fully supportive of that examination.

Additionally, the FAA is actively engaged in this matter to the extent it impacts airline safety or operations. Earlier this year the FAA released a Congressionally-mandated report titled *Study on the Use of Cell Phones on Passenger Aircraft* indicating that foreign civil aviation authorities in numerous countries where such technology has already been deployed reported “no documented occurrences of cell phones affecting flight safety on aircraft with on-board cellular telephone base stations.” The study found that “[n]one of the civil aviation authorities reported any cases of air rage or flight attendant interference related to passengers using cell phones on aircraft equipped with on-board cellular telephone base stations.”³³

Congress can also address whether in-flight voice calls should be banned. Two bills have been introduced, H.R 3676 and S.1811, that would ban voice calls on flights. H.R 3676 has been reported out of the House Committee on Transportation and Infrastructure. The Commission is ready to offer technical assistance on these bills and any other similar legislation.

There will be months of public comment and debate on the specific issues raised in the *NPRM* prior to any adoption of final rules. We hope that all interested stakeholders, including the airlines, flight attendants, pilots, the flying public, and others will review our draft proposal closely and engage in our rulemaking process.

Once again, thank you for apprising me of your views on this important matter. Please let me know if there is any additional information about this matter I can provide. We will place your inquiry in the record of this proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wheeler", with a stylized, cursive script.

Tom Wheeler

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THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 8, 2014

The Honorable Raul Grijalva
U.S. House of Representatives
1511 Longworth House Office Building
Washington, DC 20515

Dear Congressman Grijalva:

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